
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH,
CENTRAL DIVISION

JOHN ELIAS SCOTT,

Plaintiff,

v.

ANDREA PENA, STATE OF UTAH,
PROVO CITY, UTAH COUNTY, PROVO
4th DISTRICT COURT, and CLAUDIA
LAYCOCK,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:15-cv-00774-RJS

Judge Robert J. Shelby

This case was referred to Magistrate Judge Evelyn J. Furse pursuant to 28 U.S.C. § 626(b)(1)(B). Plaintiff John Elias Scott filed a petition for divorce from Andrea Penna Scott in Utah state court in April 2006. In October 2015, Mr. Scott filed a Notice of Removal, to remove this and three related cases to federal court based on alleged violations of his civil and constitutional rights under 42 U.S.C. § 1983.¹ He also asserted various federal tort claims, and filed a supplemental “Notice of Pendant Federal Torts and Other Federal Questions & Challenges” outlining these claims. In response, the State Defendants filed a Motion to Remand, asking the court to remand the case to state court and award it appropriate attorney fees.²

Judge Furse issued a Report and Recommendation on January 15, 2016.³ Judge Furse recommended the court grant the State Defendants’ Motion to Remand and award the State Defendants reasonable attorney fees incurred as a result of Mr. Scott’s removal. Neither party

¹ Dkt. 3.

² Dkt. 7.

³ Dkt. 16.

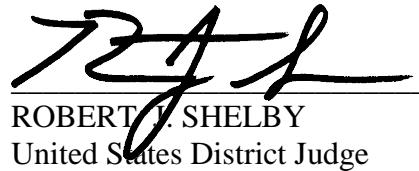
submitted an objection to the Report and Recommendation within the time allotted.⁴ In the absence of an objection to a report and recommendation, the court may apply a “clearly erroneous” standard of review when evaluating a report and recommendation. Under this standard, the court “will affirm the Magistrate Judge’s ruling unless [the court] . . . is left with the definite and firm conviction that a mistake has been committed.”⁵

After reviewing the briefing, record, and relevant legal authorities, the court concludes that Judge Furse did not clearly err in her analysis. The court therefore ADOPTS the Recommendation and ORDERS the following.

1. State Defendants’ Motion to Remand (Dkt. 7) is GRANTED;
2. The court awards reasonable attorney fees incurred as a result of Mr. Scott’s removal to the State Defendants under 28 U.S.C. § 1447(c);
3. Pursuant to Federal Rule of Civil Procedure 54 and Local Rule 54-2, the State Defendants must file a timely Bill of Costs to obtain awarded attorney fees; and
4. The Clerk of Court is directed to close the case.

SO ORDERED this 3rd day of February, 2016.

BY THE COURT:



ROBERT J. SHELBY
United States District Judge

⁴ See FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)–(c) (allowing parties fourteen days to file an objection to a report and recommendation from a magistrate judge).

⁵ *Thompson v. Astrue*, 2010 WL 1944779, at *1 (D. Utah May 11, 2010) (internal quotation marks and citations omitted).